



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Jeffery A. Steers
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Bergmann's Cleaners Inc.
DEQ Registration No. 71868

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1316.C, 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Bergmann's Cleaners Inc., for the purpose of resolving certain alleged violations of the air permits and regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Bergmann's" means Bergmann's Cleaners Inc..
7. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
8. "O&M" means operations and maintenance.
9. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
10. "Perc" means perchloroethylene
11. "VAC" means Virginia Administrative Code.
12. "MACT" means Maximum Achievable Control Technology.
13. "HAP" means Hazardous Air Pollutant.

SECTION C: Findings of Fact

1. Bergmann's operates a dry cleaning facility in Arlington, Virginia. The facility has five dry cleaning machines. Bergmann's is subject to 9 VAC 5-60-10 through 5-60-50 and 9 VAC 5-60-100 Subpart M (Perchloroethylene Dry Cleaning Facilities) and 40 CFR 63.320 through 40 CFR 63.325 (National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities) by reference. Bergmann's has a Title V permit dated November 15, 1999, as a major source of HAPs. As a Title V major source, Bergmann's has had a number of compliance inspections including a full compliance inspection on March 11, 2004, and a follow-up inspection on May 5, 2004. Bergmann's was subject to a compliance inspection on November 4, 2004.
2. 40 CFR 63.322(e) (1) and Condition IV A 5 of the facility's current Title V permit require that the refrigerated condenser be operated so as to not vent or release the perc contained within the dry cleaning machine to the atmosphere. At Machine C1, a perc reading greater than 1300 parts per million (ppm) was observed near the large sight glass on the rear of the machine using a calibrated MiniRae 2000 photoionization detector (PID), indicating that the machine was leaking perc. These PID readings were confirmed by testing with Bergmann's electronic halogen detector. The reading on the large sight glass was also confirmed by sense of touch. In a May 4, 2004, letter to DEQ, the sight glasses were identified by Bergmann's as a high maintenance item that needed to be

replaced frequently. The weekly inspection reports maintained by Bergmann's did not indicate any replacement for the past six months on Machine C1.

3. Condition VII C 3 of the current Title V permit requires that Bergmann's submit a report of monitoring carried out between January 1 and July 31, 2004. This report must contain information on all deviations from permit requirements, including exceedences of emission limits or operational restrictions. On July 26, 2004, Bergmann's submitted a semi-annual deviation report covering the period January through June 2004 that inaccurately identified no deviations from permit during the reporting period. Specifically, the report did not identify deviations from permit requirements identified by DEQ during inspections on March 11 and May 5, 2004. The deviations noted by DEQ in these two inspections included leaks at sight glasses on Machine C2 and late and inaccurate semi-annual deviation reports.
4. 9 VAC 5-40-6840.A.2.a requires that solvent cold cleaning machines must post operating instructions that describe the environmental operating parameters that must be followed. A thirty-gallon solvent cold cleaning machine without the required operating instructions was observed at the facility during the November inspection.
5. 9 VAC 5-80-90 requires that emission information for all emission units be included in a permit application, including information on emission units that may be insignificant. No information on the solvent cleaning machine was included on either the 1999 or 2004 Title V permit applications for this facility.
6. DEQ issued a Notice of Violation to Bergmann's on December 1, 2004, addressing the aforementioned alleged violations.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders Bergmann's, and Bergmann's agrees to:

1. Comply with the specific actions given in Appendix A of this Order.
2. The payment of civil charges in the amount of Seventeen Thousand and fourteen dollars (\$17,014.00) will be paid in four installments of Four Thousand Two Hundred and fifty three dollars and fifty cents (\$4,253.50). The payments will be made on the following dates:
 - 1st payment of \$ 4,253.50 will be paid on or before March 23, 2005
 - 2nd payment of \$4,253.50 will be paid on or before April 25, 2005
 - 3rd payment of \$ 4,253.50 will be paid on or before May 23, 2005
 - 4th payment of \$ 4,253.50 will be paid on or before June 23, 2005

3. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Bergmann's, for good cause shown by Bergmann's, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued December 1, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Bergmann's admits the jurisdictional allegations contained herein. Bergmann's consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
4. Bergmann's declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by Bergmann's to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

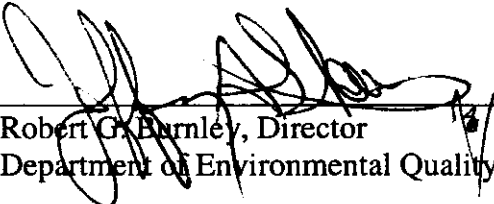
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Bergmann's shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Bergmann's shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bergmann's shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

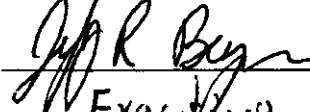
8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Bergmann's. Notwithstanding the foregoing, Bergmann's agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Bergmann's. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bergmann's from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By its signature below, Bergmann's voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 18, 2005


Robert G. Burnley, Director
Department of Environmental Quality

Bergmann's voluntarily agrees to the issuance of this Order.

By: 
Executive V.P.

Date: March 11, 2005

Commonwealth of Virginia

City/County of Arlington

The foregoing document was signed and acknowledged before me this 12th day of MARCH, 2005, by JEFF R. BERGMANN, who is
(name)

MARCH of Bergmann's, on behalf of the Corporation.
(title)


Notary Public

My commission expires: 1-31-2006

APPENDIX A

1. Bergmann's Cleaners Inc (Bergmann's) agrees to establish administrative and/or contractual arrangements involving an independent third party to ensure that leaks around its dry cleaning machines are found and fixed as soon as possible. Bergmann's shall submit a detailed description of these procedures for DEQ approval within 30 business days of this Consent Order.
2. Bergmann's agrees to comply with all the provision of the Dry Cleaning MACT standard, including all inspection, repair, and recordkeeping requirements.
3. Bergmann's agrees that any leaks found in dry cleaning machines and the repairs taken will be reported to DEQ within ten (10) business days of the discovery of the leak.
4. Bergmann's agrees to file an application to either modify its Title V permit to include the solvent cleaning machine or remove the machine from its facility within 30 days of the effective date of this order.
5. Bergmann's agrees to comply with all aspects of solvent cleaning machine regulation 9 VAC 5-40-6840 A.
6. Bergmann's may, after a period of no less than three years after the initial date of this Consent Order, request that this order be terminated. Such a request will be made in writing to the Air Compliance Manager at DEQ's Northern Virginia Regional Office and shall include a demonstrated history of compliance for a period of no less than 3 years. The Consent Order may be terminated at DEQ's sole discretion.